

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

JERRY BREESE,

Plaintiff.

v.

SERGEANT TREY KURTZ;
MAUREEN T. BEIRNE; MDJ
JONATHON WILCOX,

Defendants.

No. 4:17-CV-01678

(Judge Brann)

ORDER

1. On September 18, 2017, Plaintiff Jerry Breese filed an action under 42 U.S.C. § 1983 against Defendants. ECF No. 1.
2. The complaint alleges that, in July 2014, Mr. Breese was searched by Defendant Trey Kurtz, a sergeant with the Canton Police Department. The search revealed that Mr. Breese was in possession of a controlled substance. Consequently, Sergeant Kurtz issued a citation to Mr. Breese. *Id.* at 2.
3. Defendant Jonathon Wilcox, a Pennsylvania Magisterial District Judge, conducted Mr. Breese's preliminary hearing and bound the charges over to the Court of Common Pleas of Bradford County, Pennsylvania. *Id.* at 3.

4. Defendant Maureen T. Beirne, President Judge of the Court of Common Pleas of Bradford County, refused Mr. Breese's motion to suppress the evidence, found Mr. Breese guilty of possession of a controlled substance, and sentenced him to a period of incarceration. *Id.*
5. The Superior Court of Pennsylvania later overturned Mr. Breese's conviction for "overreaching search tactics." *Id.*
6. Mr. Breese's complaint seeks relief from the three Defendants in the form of (1) compensation for the time he spent in incarceration, (2) lost wages, and (3) punitive damages. *Id.* at 3-4.
7. On December 8, 2017, Chief Magistrate Judge Susan E. Schwab issued a Report and Recommendation, which recommended that this Court should dismiss the claim against Defendants Judge Wilcox and Judge Beirne on the basis of judicial immunity. ECF No. 15.
8. Mr. Breese did not object to the Report and Recommendation.
9. This Court has reviewed the Report and Recommendation, finds no error, and agrees with its conclusions.

Therefore, this 13th day of February 2018, **IT IS HEREBY ORDERED** that:

10. The Report and Recommendation, ECF No. 15, is **ADOPTED IN ITS ENTIRETY.**

11. Mr. Breese's claim against Judge Jonathon Wilcox and Judge Maureen T.

Beirne is **DISMISSED WITH PREJUDICE**.

12. This case is **REMANDED** to Chief Magistrate Judge Susan E. Schwab for further proceedings as to Sergeant Kurtz.

BY THE COURT:

s/ Matthew W. Brann

Matthew W. Brann

United States District Judge